

Attorney Docket No.: ST98007 US CNT
Application No.: 10/790,260
Examiner: David Lukton

Remarks

In the Office Action, the Examiner noted that claims 18 to 34 are subject to restriction. In particular, the Examiner has given a two-way restriction pursuant to 35 USC 121 as follows:

<i>Inventions</i>
Group I. Claims 18-30 and 32-34, drawn to compounds, methods of making compounds, and a binary mixture of compounds.
Group II. Claim 31, drawn to synthetic intermediates.

As indicated above, through this response, Applicants provisionally elect invention Group I *with traverse*, namely, claims 18-30 and 32-34, drawn to compounds, methods of making compounds, and a binary mixture of compounds. Additionally, as requested by the Examiner, Applicants have also provisionally elected with traverse a single compound falling within the scope of invention Group I to be 3"-ethoxycarbonyl-2"-aminopyrido [2,3-5 γ ,5 δ]pristinamycin I_B, which is also described in Example 2 at page 41 of the specification. Examiner's imposition of two-way restriction is respectfully traversed below.

Applicants respectfully submit that this two-way restriction as imposed by the Examiner is improper based on the following grounds:

1. There is no undue burden on the Examiner to search for all of the claims as they are believed to be in the same and/or similar classification.
2. Product, process of making them and their uses should be rejoined pursuant to MPEP 821.04

Now, we address each one of these two issues in greater detail. First, Applicants respectfully submit that the search of all of the claims 18 to 34 should not impose any undue burden on the Examiner. Although the Examiner has not provided any search classification and/or sub-classification for the above noted two invention groups, it is respectfully submitted that both these invention groups may fall within the same classification. Even more importantly, when the Examiner is searching in one class, that itself may facilitate the search of the other invention group. Thus, it does not impose any undue burden on the Examiner to search both these invention groups together. Therefore, Applicants respectfully submit that both invention groups be rejoined and examined together.

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Secondly, Applicants submit that product and the related process claims should be rejoined pursuant to MPEP 821.04. As noted in MPEP 821.04:

"However, if *applicant elects claims directed to the product*, and a product claim is subsequently found allowable, *withdrawn process claims* which depend from or otherwise include all the limitations of the allowable product claim *will be rejoined*.
(emphasis added)

As noted above, claim 31 is drawn to synthetic intermediates for the preparation of compounds of invention group I. Thus, both invention groups I and II should be rejoined pursuant to MPEP 821.04.

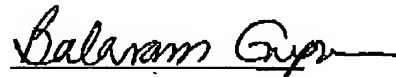
Finally, Applicants respectfully submit that this two-way restriction imposes an undue expense on the Applicants and discourages Applicants to maintain a plurality of patents, which is against the constitutional intent to promote the progress of science and technology and thus against the public policy. For these reasons and for the reasons advanced above Applicants request the Examiner to reconsider and withdraw this restriction requirement.

In the event the Examiner wishes to contact the undersigned regarding any matter, please call (collect if necessary) the telephone number listed below.

Applicants believe there are no fees due for this response. However, if the Examiner deems that fees are due, please charge these fees to Deposit Account No. 18-1982 for Aventis Pharmaceuticals Inc. Bridgewater, NJ. Please credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

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